

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO: 01-325-CLY-TRUCK

JUDGE: SORRENTINO

RANDY A. WEAVER,

Plaintiff,

V.

JAMES MEEHAN, Et, Al.,.

Defendant(s).

PLAINTIFF'S AFFIDAVIT

IN SUPPORT OF MOTION FOR THE

APPOINTMENT OF COUNSEL IN A

CIVIL ACTION

Pursuant to 28 U.S.C. § 1915(d)

COMES NOW, Randy A. Weaver, the plaintiff in the above-captioned matter, does hereby state the following to the Court, in support of plaintiff's Motion for the Appointment of Counsel in Civil Action.

TO WITT:

(1). The plaintiff alleges that the statements contained within the civil complaint are based upon actual incidents, in which the defendant's are completely responsible and that the defendant's committed these acts "**under color of law**", therefore, the plaintiff is entitled to relief in this civil action.

(2). That the defendant's being those in positions of authority are represented by attorney's to protect them from such actions as this plaintiff is now bringing against them, and that the defendant's will be represented by counsel in this matter.

(3). In support of plaintiff's Motion for Counsel, plaintiff relies on Haun V. McLey, 737 F.2d 771 (1984), in which the court held that a plaintiff is entitled to

plaintiff has shown to the court that plaintiff has presented colorable civil claims to the court. Citing, Nelson V. Redfield Lithograph Printing, 728 F.2d 1003 (8th Cir. 1984), the court held that, " when an indigent presents a colorable claim to a court, the court, upon request, should order the appointment of counsel from the bar." Further supporting plaintiff's claim for counsel is the case of Abdullah V. Gunter, 949 F.2d 1032 (8th Cir. 1991), the court stating, "[T]he appointment of counsel should be given serious consideration by the district court if the plaintiff has not alleged a frivolous or malicious claim. If a frivolous claim has been alleged, the district court may dismiss the claim. However, once the court is satisfied that plaintiff has alleged a valid prima facie claim, then further inquiry should be made as to need. The court should satisfy itself that plaintiff has in good faith attempted to retain counsel and has been unsuccessful. The court should also determine whether the nature of the litigation is such that plaintiff as well as the court will benefit from the assistance of counsel.", Nelson Id at 1005. See also, Johnson V. Williams, 788 F.2d 1319, 1322-1323 (8th Cir. 1986); Bailey V. Lawford, 835 F.Supp. 550 (S.D.Cal. 1993)[n A-1]; Scott V. Tyson Foods, 943 F.2d 17 (8th Cir. 1991); Sours V. Norris, 782 F.2d 106 (8th Cir. 1986), and further, this Honorable Court has the authority to appoint counsel under 28 U.S.C. § 1915(d).

WHEREFORE, the plaintiff prays that this Honorable Court, upon review of the merits of this matter, grant plaintiff's Motion for Appointment of Counsel, and forthwith order that counsel is necessary due to the complex litigation that would result from this

during the course of a civil trial.

Plaintiff submitts the enclosed document as (**EXHIBIT AS-01"**), in support of showing Court that the Plaintiff's case does indeed have merit, and should proceed, and to help this Honorable Court to decide on Plaintiff's motion for the Appointment of Counsel.

Plaintiff states the above is true and correct under penalty of perjury, 28 U.S.C. §1746.

Dated this 17th day of
April, 2001.

Respectfully Submitted,

Randy Anthony Weaver
Randy/Anthony Weaver-Pro Se
92903-071
Federal Correctional Inst.
P.O. Box 779800
Miami, Florida 33177

08/17/00

PATIENT'S NAME

950 CALIFORNIA AVENUE

SPARTANBURG SC 29301

ADDRESS

(864) 596-2626

36

07/26/64

M

TELEPHONE NO.

AGE

DOB

SEX

ED BY

INSURANCE

Nasal FX

6-28-00

Pt. was assaulted by U.S. Marshalls on 6-28-00
he ended up to a nasal FX but was
refused medical treatment. Hard to breathe thru
right side of nose. Still has pain at night
when he lies down. When bites down a front tooth
it hurts up into nose.

MEDS

HX OF: ASTHMA

HAY FEVER

ALLERGIES

CHEST PAIN

SOB

ATIONS

FREE BLEEDER

TOBACCO

ALCOHOL

STREET DRUG

DISEASES

GENERAL HEALTH

CANCER

DIABETES

ASTHMA

HAY FEVER

SIGNS: HT

WT

149.8

T

P

R

B/P

STANDING B/P

APP: NC

SCARS

LESIONS

MASSSES

TENDERNESS

FACIAL NERVE

S: EOM

DIPLOPIA

PUPILS

CORNEA

VISION

S: CANAL RT

clear

DRUM RT

clear

PINNA

NC

S: CANAL LT

rem. impacted wax

DRUM LT

clear

PNEUMO OTO

E: EXT: NC

SEPTUM

dev. (2) area

TURBINATES

nt

SMELL

ENDOSCOPY

tender

over (2) area

Anterior nasal spine

OUTH: LIPS

NC

GUMS

NC

MUCOSA

moist

TONGUE

NC

TEETH

lost 4 molars or premolars

PALATE

intact

UVULA

NC

ROAT: TONSILS

he still has

PILLARS

NC

POST PHARYNX

NC

PHARYNX: ADENOIDS

E. TUBE

POST CHOANAE

YNX: EPIGLOTTIS

VALLECULA

PYRIFORM SINUS

ARYTENOIDS

FALSE CORDS

CORDS

CK: SYMMETRY

NC

TRACHEA

midline

THYROID

only

SALIVARY GLANDS

only

LYMPH NODES

only

OTHER MASSES

TENDERNESS

SP: LUNGS

CHEST SYMMETRY

EXPANSION

HEART

CAROTID

URO: ROMBERG

SHARP ROMBERG

F-N

NYSTAGMUS

CN

MOOD AFFECT

ORIENTED X 3

IN: COLOR

NC

TEMP

warm

MOIST

✓

DIO/X-RAY

AGNOSIS

EATMENT

dev. septum, Imp. Cerumen

Only thing to improve breathing thru nose

must be done - explained. Also surg.

9 post-op expectations, risks: bleeding, inc.

this is OP/local.

CIVIL EXHIBIT "AS-01"

CERTIFICATE OF MAILING AND PROOF OF FILING

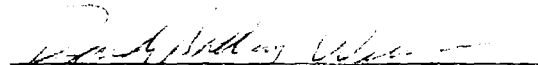
I hereby certify that I did cause to be personally served upon the Clerk of Court for the Southern district of Florida, at Miami, a true and correct copy of the Plaintiff's Affidavit in Support of Plaintiff's Motion for the Appointment of Counsel in a Civil Matter, by placing the same in the United States Mail Service, at the Federal Correctional Institution, and properly affixed postage to the same, and addressed as follows:

To: The Honorable Clerk of Court
Southern district of florida
federal courthouse Square
301 N. Miami Avenue, Room ~~200~~ 150
Miami, Florida 33128-7788

Plaintiff attached to said Affidavit, a true and correct copy of the Medical findings regarding the assault in question in this matter, and labeled the same as **EXHIBIT "AS-01"**, and states the above under penalty of perjury, **28 U.S.C. §1746.**

Dated this 17th day of
April, 2001.

Respectfully Submitted,


Randy Anthony Weaver-Pro Se
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Federal Correctional Inst.
P.O. Box 779800
Miami, Florida 33177